उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(19)

मामला क्रमांक M.A.C 1183 सन् 2007

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

M.A(C) No.1183 of 2007

Appellants

1. Smt. Menka, w/o late Surendra Kumar, aged about 23 years,
2. Mular Sahu, s/o Pila Das Sahu, aged about 50 years
3. Kasturiya Bai, w/o Mular sahu, aged about 45 years
4. Devki Bai, d/o Mular Sahu, aged about 22 years,

   All residents near Ramnagar Muktidham, beside Sinha Aata Chakki, Bhilai, Tahsil & Distt. Durg (C.G)
5. Chanchal Sahu (Minor) d/o Late Surendra Kumar, aged about 8 months, through her Mother Legal Guardian Smt. Menka, w/o late Surendra Kumar, r/o near Ramnagar Kuktidham beside Soinha Aata Chakki, Bhilai, Tah. & Distt. Durg (C.G).

Versus

RESPONDENTS

1 Ekabal, s/o Afjal, aged about 30 years, r/o Ganjpara, near Sati Choura Durg, Tahsil & Distt. Durg (C.G)

2 Smt. Sakuntala Sahu, w/o Gajanand Sahu, r/o near sahu Sadan, Kelabadi, Durg, Tahsil & Distt. Durg (C.G).

3 The New India Insurance Company Ltd., through Branch Manager, Power House Project, in front of Auto Mobile, G.E. Road, Bhilai,

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Tahsil & Distt. Durg (C.G) **Insurance company.**

Misc. Appeal u/s 173 of the Motor Vehicles Act.

Appearance:

Shri P.M. Shrivas, counsel for the appellants.

D.B: Hon'ble Shri Justice L.C. Bhadoo, J &
Hon'ble Shri Justice Sunil Kumar Sinha, J.

ORAL ORDER
(23.10.2007)

L.C.Bhadoo, J,

Heard.

The claimants have preferred this appeal u/s 173 of the Motor Vehicles Act 1988 being aggrieved by the award dated 4th August 2007 passed by the XIIth Addl. Motor Accident Claims Tribunal (FTC), Durg (C.G), in Claim Case no. 137/2006 whereby and whereunder the Tribunal has awarded the loss of dependency to the tune of Rs.,4,08,000/-. Besides this, Rs.2000/- has been awarded for funeral expenses, Rs.5000/- for love and affection, Rs.3000/- for loss of estate and thereby in all Rs.4,18,000/- has been awarded with interest @ 6% per annum from the date of filing of the claim petition.

Learned counsel for the claimants/appellants argued that the income of the deceased has been assessed on the lower side i.e., Rs. 3000/- per month whereas he was earning Rs.6000/- p.m. In Para 29 of the impugned award, learned

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Tribunal has held that the owner of the shop namely Tahaldas (A.W.3) has stated that he used to give Rs.6000/- per month, but he has not produced any record regarding payment towards salary to his employees. This witness has produced only the salary certificate but supporting documents have not been produced, therefore, it cannot be considered that the deceased Surendra Kumar was getting Rs.6000/- per month. It has further been held that Surendra Kumar, a young man of aged about 25 years at the time of accident, was working as Tailor in the shop of Tahaldas and it is reasonable that he was earning about Rs.100/- per day, in view of the decision of this Court rendered in the matter of *Shiv Kumar and others –Vs- Maleshram and others 2006 L.T.(C.G) 96*, and thereby it has been held that he used to earn Rs.3000/- per month. Looking to the nature of work which the deceased was doing by all means, the conclusion of the Tribunal cannot be said to be unreasonable, therefore, we do not find any substance in the argument of learned counsel for the appellants to that extent and after deducting 1/3rd of expenses on himself, remaining 2/3 i.e. Rs.2000/- per month has been assessed as loss of dependency and the multiplier of 17 has been applied.

At the time of accident, deceased Surendra Kumar was said to be 25 years of age in this case. Wife of deceased aged about 23 years, father aged about 50 years, mother aged about 45 years are also the main claimants and looking to the Second Schedule attached with the Motor Vehicles Act, 1988, a correct

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

multiplier has been applied because as per the schedule if the age is between 20 and 25 years, multiplier of 17 has to be applied.

Therefore, for the foregoing reasons, we are of the considered opinion that the Tribunal has awarded just and reasonable compensation to the claimants and there is no illegality or infirmity in the award passed by the Tribunal.

The appeal being devoid of merits is liable to be dismissed and the same is hereby dismissed at the motion stage itself.

Sd/-
L.C. Bhadoo
Judge

Sd/-
Sunil Kumar Sinha
Judge